

NOTICE OF PROPOSED CHANGES IN THE
REGULATIONS OF THE DEPARTMENT OF COMMERCE,
COMMUNITY, AND ECONOMIC DEVELOPMENT

BRIEF DESCRIPTION

The Department of Commerce, Community, and Economic Development proposes regulation changes to conform its regulations to HB 308, effective July 1, 2014.

The Department of Commerce, Community, and Economic Development proposes to adopt regulation changes in Title 3, Chapter 8 of the Alaska Administrative Code including the following:

- (1) 3 AAC 08.910(1) is amended to reflect the current names of nationally recognized securities manuals.
- (2) 3 AAC 08.910(3)(A) and (5) which require notice filings for securities exempted by AS 45.55.900(b)(5)(A), (b)(5)(B), and (b)(7)(B), are repealed to conform with new statutory language in HB 308, effective July 1, 2014 or are no longer necessary. These exemptions are now “self-executing” and do not require a notice filing. 3 AAC 08.910(6) is proposed to be amended to reflect filing only when commissions are paid in a (b)(7)(B) transaction.
- (3) 3 AAC 08.910(9) is amended to require 10 days’ notice for filing of rescission offers under AS 45.55.900(b)(19) rather than two days. This amendment conforms the regulation with new statutory requirements under HB 308, effective July 1, 2014.
- (4) 3 AAC 08.910 is proposed to be amended by adding a new subsection to better define the term “controlling person” for purposes of AS 45.55.900(b)(9).
- (5) Various other provisions throughout the chapter are proposed to be amended to correct outdated or incorrect citations to Alaska or federal law or eliminate outdated technology references.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to

Kristy Naylor, Chief of Enforcement and Securities
Division of Banking and Securities
Department of Commerce, Community, and Economic Development
550 W. 7th Avenue, Suite 1850
Anchorage, AK 99501

Additionally, the Department of Commerce, Community, and Economic Development will accept comments by facsimile at (907) 269-8146 and by electronic mail at dbsc@alaska.gov.

Comments may also be submitted through the Alaska Online Public Notice System, by accessing this notice on the system and using the "comment" link. The comments must be received no later than **4:30 p.m. on November 7, 2014**.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Kristy Naylor at (907) 269-8140 no later than October 24, 2014 to ensure that any necessary accommodations can be provided.

For a copy of the proposed regulation changes, contact Kristy Naylor at (907) 269-8140, or go to <http://commerce.alaska.gov/dnn/dbs/Home.aspx>.

After the public comment period ends, the Department of Commerce, Community, and Economic Development will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulations may be different from that of the proposed regulations. **You should comment during the time allowed if your interests could be affected.**

Statutory Authority: AS 45.55.900; AS 45.55.950

Statutes Being Implemented, Interpreted, or Made Specific: AS 45.55.025; AS 45.55.060; AS 45.55.110; AS 45.55.150; AS 45.55.170; AS 45.55.900; AS 45.55.950; AS 45.55.980; AS 45.55.990.

Fiscal Information: The proposed regulation changes are not expected to require an increased appropriation.

DATE: October 2, 2014

/s/
Kristy Naylor
Chief of Enforcement and Securities

The Department of Commerce, Community, and Economic Development, Division of Banking and Securities keeps a list of individuals and organizations interested in its regulations. Those on the list will automatically be sent a copy of all of the Division's Notices of Proposed Regulations Changes. To be added to or removed from the list, send the request to the:

Division of Banking and Securities
Department of Commerce, Community, and Economic Development
550 W. 7th Avenue, Suite 1850
Anchorage, AK 99501

Please include your name and either your e-mail address or mailing address, as you prefer for receiving notices.

ADDITIONAL REGULATIONS NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Department of Commerce, Community, and Economic Development
2. General subject of regulation: Filing requirements for certain securities transactions.
3. Citation of regulation (may be grouped): 3 AAC 08.085; 3 AAC 08.900-3 AAC 08.950
4. Reason for the proposed action:
 - ☐ compliance with federal law
 - ☒ compliance with new or changed state statute
 - ☐ compliance with court order
 - ☐ development of program standards
 - ☒ other: (please list) need to clarify and update outdated or incorrect regulations
5. Appropriation/Allocation: N/A
6. Cost of implementation to the state agency and available funding (in thousands of dollars):

	Initial Year FY <u>15</u>	Subsequent Years
Operating Cost	\$ <u>(3.1)</u>	\$ _____
Capital Cost	\$ _____	\$ _____
1002 Federal receipts	\$ _____	\$ _____
1003 General fund match	\$ _____	\$ _____
1004 General fund	\$ _____	\$ _____
1005 General fund/ program	\$ _____	\$ _____
1037 General fund/ mental health	\$ _____	\$ _____
Other	\$ _____	\$ _____

7. The name of the contact person for the regulations:

Name: Kristy Naylor
Title: Chief of Enforcement and Securities
Address: 550 W. 7th Avenue, Suite 1850
Anchorage, AK 99501

Telephone: 907-269-8140
E-mail address: dbsec@alaska.gov

9. The origin of the proposed action:

☒ staff of state agency
☐ federal government

☐ general public
☐ petition for regulation change
☒ other (please list) HB 308, effective July 1, 2014

10. Date: October 2, 2014

Prepared by: _____/s/_____

Name (printed): Kristy Naylor

Title (printed): Chief of Enforcement and Securities

Telephone: 907-269-8140

3 AAC 08.065(a) is amended to read:

(a) This section applies exclusively to broker-dealer services conducted by broker-dealers on the premises of a financial institution where retail deposits are taken. This section does not apply to broker-dealer services provided to non-retail customers, such as institutional investors within the meaning of AS 45.55.990(7)(D)(i)-(iii) [AS 45.55.990(3)(D)(i)-(iii)].

(Eff. 4/19/2000, Register 154; am __/__/__, Register ____)

Authority: AS 45.55.025 AS 45.55.060 AS 45.55.950

3 AAC 08.900(c)(3) is amended to read:

(3) sales literature, advertisements, or market letters prepared in conformity with the applicable regulations and in compliance with the filing requirements of the SEC, FINRA [NASD], or a national securities exchange, and not found by that agency or organization to be out of compliance with those regulations and requirements; (Eff. 2/20/72, Register 41; am 4/19/2000, Register 154; am 6/8/2001, Register 158; am __/__/__, Register ____)

Authority: AS 45.55.150 AS 45.55.170 AS 45.55.950

3 AAC 08.910(1)(A) is amended to read:

(1) manual exemptions

(A) for the purpose of the "manual exemption" under AS 45.55.900(b)(17), the following publications that contain information prescribed at AS 45.55.900(b)(17) are "nationally recognized securities manuals":

(i) Standard and Poor's Standard Corporation Descriptions;

(ii) Mergent's Industrial Manual;

(iii) Mergent's Bank and Finance Manual;

(iv) Mergent's Public Utility Manual;

(v) Mergent's Municipal and Governmental Manual;

(vi) Mergent's Transportation Manual;

(vii) Mergent's OTC Industrial Manual;

(viii) Mergent's OTC Unlisted Manual; and

(ix) Mergent's International Manual.

[(i) STANDARD & POOR'S;

(ii) MOODY'S INVESTORS SERVICE, INC.;

(iii) FINANCIAL COMMUNICATIONS COMPANY, INC.,

WHICH WERE FORMERLY KNOWN AS "MOODY'S MANUALS";

(iv) FITCH INVESTORS SERVICE, LP;]

3 AAC 08.910(3)(A) is repealed:

(A) Repealed __/__/__.

3 AAC 08.910(5) is repealed:

(5) Repealed __/__/__.

3 AAC 08.910(6) is amended to read:

(6) an application for exemption under AS 45.55.900(b)(7), when commission or other remuneration other than a stand by commission is paid, shall be filed with the

administrator on State of Alaska Form 08-109 along with the fees as required by 3 AAC 08.920(a)(6); the application must be in the administrator's possession five full business days before the proposed transaction, unless the administrator waives the five-day time requirement;

3 AAC 08.910(9) is amended to read:

(9) an application for exemption under AS 45.55.900(b)(19) shall be filed with the administrator on State of Alaska Form 08-111 along with the fees as required by 3 AAC 08.920(a)(6), and must be in the administrator's possession at least **ten** [TWO] business days before the offer is made, unless the administrator waives the **ten** [TWO]-day time requirement;

3 AAC 08.910 is amended by adding a new subsection to read:

(14) For purposes of AS 45.55.900(b)(9), a controlling person means a person who owns or controls more than 50 percent of the outstanding shares of the securities of a person.

(Eff. 2/20/72, Register 41; am 3/24/76, Register 57; am 2/9/78, Register 65; am 11/18/90, Register 116; am 9/8/91, Register 119; am 10/1/99, Register 151; am 6/8/2001, Register 158; am __/__/____, Register ____)

Authority: AS 45.55.900 AS 45.55.950

3 AAC 08.920(a)(1)(B) is amended to read:

(B) all forms and documents shall be in electronic medium or printed, [LITHOGRAPHED, MIMEOGRAPHED,] typewritten, or prepared by a similar process which, in the opinion of the administrator, produces copies suitable for a permanent record and shall be clear, easily readable, and suitable for repeated copying; exhibits may be attached to additional sheets or filed in separate envelopes, properly marked or identified;

(Eff. 2/20/72, Register 41; am 10/1/99, Register 151; am 4/19/2000, Register 154; am 4/20/2000, Register 154; am 1/4/2013, Register 205; am __/__/__, Register __)

Authority: AS 45.55.110 AS 45.55.139 AS 45.55.950
AS 45.55.980

3 AAC 08.950(33) is amended to read:

(33) "accredited investor" has the meaning given in **17 C.F.R. 230.501(a), as revised as of October 1, 2013** [17 C.F.R. 230.501(C), AS REVISED AS OF OCTOBER 1, 1999] and adopted by reference;

3 AAC 08.950 is amended by adding a new subsection to read:

(75) "FINRA" means the Financial Industry Regulatory Authority, formerly NASD.

(Eff. 2/20/72, Register 41; am 10/1/99, Register 151; am 4/19/2000, Register 154; am 4/20/2000, Register 154; am 12/7/2006, Register 180; am __/__/__, Register __)

Authority: AS 45.55.950 AS 45.55.990